



POLICE DEPARTMENT

September 21, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jeffrey Broner
Tax Registry No. 931562
Police Service Area 1
Disciplinary Case Nos. 2013-8999 & 2014-11671

The above-named member of the Department appeared before me on June 16, 2015, charged with the following:

Disciplinary Case No. 2013-8999

1. Said Police Officer Jeffrey Broner, assigned to the 68th Precinct, on or about and between January 1, 2011 and January 31, 2012, in the confines of the 68th Precinct, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer failed to properly and accurately document activity in the Monthly Activity Reports including but not limited to summons activity, UF-250 reports, and Truant reports.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS
PROHIBITED CONDUCT

2. Said Police Officer Jeffrey Broner, assigned as indicated in Specification #1, on or about and between January 1, 2011 and January 31, 2012, in the confines of the 68th Precinct, did fail and neglect to maintain his Activity Log (PD 112-145), as required.

P.G. 212-08, Page 1, Paragraph 1 - ACTIVITY LOGS-COMMAND
OPERATIONS

Disciplinary Case No. 2014-11671

1. Said Police Officer Jeffrey Broner, while assigned to the 68th Precinct, on or about and between March 1, 2013 and August 10, 2013, did engage in conduct

prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to make timely notifications after having found previously unaccounted summonses that were purportedly removed from said Police Officer's Department locker by another Member of Service.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS
PROHIBITED CONDUCT

2. Said Police Officer Jeffrey Broner, while assigned as indicated in Specification #1, on or about August 10, 2013, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to timely submit previously issued summonses that were listed on the Summons Aging Report.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS
PROHIBITED CONDUCT

The Department was represented by Beth Douglas, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq. of Worth, Longworth & London, LLP. The Department called Lieutenant Christopher Sabbatino and Lieutenant Richard Tully as witnesses. Respondent testified on his own behalf.

Respondent, through his counsel, entered a plea of Not Guilty to Specification No. 1 of Case No. 2013-8999 and to Specifications Nos. 1 and 2 in Case No. 2014-11671. Respondent pled Guilty to Specification No. 2 in Case No. 2013-8999. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2013-8999

Respondent is found Guilty.

Disciplinary Case No. 2014-11671

Respondent is found Guilty.

FINDINGS AND ANALYSISDisciplinary Case No. 2013-8999

Respondent is charged with failing to accurately document activity in required Monthly Activity Reports, and is alleged to have exaggerated his summons activity and the number of UF-250 and truant reports he prepared. I find that the Department has proved, by a preponderance of the credible evidence, that Respondent's Monthly reports were inaccurate.

The following facts are undisputed. On January 31, 2012, Respondent's direct supervisor, Sergeant Angel Rosa, informed Lieutenant Christopher Sabbatino, the Integrity Control Officer ("ICO") for the 68 Precinct, that certain discrepancies existed between Department records and Respondent's self-reported Monthly Activity logs (Department's Exhibit ("DX") 1A-1M) regarding Respondent's productivity from January 2011 through January 2012. (Tr. 20-21). The Monthly Activity Log is a self-prepared report where a police officer logs his daily activity, including summonses issued, radio runs and reports prepared and then tallies up activity at the end of the month. (*Id.*). Beginning in November 2011, police officers were required to present their in-progress monthly report to a supervisor each week for verification. (Tr. 25-26).

With regard to summonses, all three types of summonses are listed on the Monthly Activity Log. "A" summonses are parking violations; "B" summonses are moving violations; and "C" summonses are criminal court violations. (Tr. 22). The process for issuing summonses was as follows. An officer would be issued a book of twenty summonses from a supervisor or desk officer. The officer would then fill out a

summons distribution card with his name, signature tax number and the date. (Tr. 28).

The desk officer would scan out the summonses and note in the computer that they belonged to a particular officer. (Tr. 23). Once the summons was written and issued, the officer would present it to a supervisor, who would scan it back it into the computer as issued and then forward all of the scanned summonses for a particular day in a batch transmittal to be sent to the patrol borough. (Tr. 23-24). The officer retained the carbon copy of the summons until all summonses in the book were issued. (Tr. 49).

Prior to January 1, 2011, there were no issues with Respondent's Monthly Activity Reports. (Tr. 67). Respondent does not deny that discrepancies exist between the Monthly Activity reports and Department records.

Specifically, Respondent noted on his Monthly Activity Logs that he issued 262 "A" parking summonses from January 2011 through January 2012. (DX 1A-1M). However, the Department summons statistic report, utilizing the computer database that tracks an officer's summons activity, showed that Respondent only issued 43 "A" summonses during that time period. (Tr. 79-81; DX 9). Moreover, Respondent was only issued four "books" of "A" summonses containing twenty "A" summonses each during this time period. (Tr. 79; DX 2).

As to "B" summonses, Respondent self-reported that he issued 92 "B" summonses during the time period in question (Tr. 80; DX 1A-1M); however, the Department summons statistic report showed that Respondent only issued 22 "B" summonses. (Tr. 80, DX9). Respondent was issued one book of twenty "B" summonses during the relevant time period. (DX 2).

Finally, as to "C" summonses, Respondent noted on his Monthly Activity reports that he issued 49 "C" summonses during the relevant time period (Tr. 80; DX 1A-1M); however, the Department summons statistic report, showed that Respondent only issued 7 "C" summonses. (Tr. 80; DX9). Respondent was issued one book of twenty "C" summonses during this time. (DX2).

Discrepancies also exist between Respondent's Monthly Activity reports and the precinct's truant report log. The truant report log is a precinct record that contains the pedigree information for every youth who is the subject of a truant report due to absence from school. (Tr. 31). Truant reports are entered in this log by the precinct youth officer after a report is submitted by the officer who prepared it. (Tr. 31-33, 58-59). Respondent claimed to have prepared 168 truant reports in his Monthly Activity reports from January 2011 through January 2012. (Tr. 75; DX 1A-1M). The precinct truant report log, however, listed only 68 truant reports prepared by Respondent during that time. (DX 5).

Finally, there are discrepancies as to how many stop and frisks were conducted by Respondent during the same time period. Respondent indicated in his Monthly Activity reports that he conducted 31 "stop and frisks" from January 2011 through January 2012. (DX 1A-1M). However, according to the Crime Analysis Unit within the 68 precinct, Respondent prepared and submitted only eight (8) UF-250 stop, question and frisk reports. (Tr. 34, 76-78, DX 8A-8B). Members of the service must document stops in a Stop, Question & Frisk Report, which is submitted back to the command. (Tr. 161; P.G. 212-11).

Respondent's Activity Log did not show any additional documentation of Respondent's productivity and was not entered into evidence, as Respondent pled Guilty to failing to maintain his Activity Log during this time period.

In dispute is whether Respondent inaccurately reported his activity on his Monthly Activity Reports, inflating his productivity. The Department takes the position that he did, asserting simply that it has met its burden via a multitude of documents, including the summons activity reports, the UF-250 Stop, Question and Frisk reports and the truant log, none of which match up with Respondent's self-reported activity. (Tr. 158-59). Further, the investigator on this matter, Lieutenant Richard Tully, who is assigned to Brooklyn South Investigations and has investigated this type of misconduct for twelve years, testified that the discrepancies in the instant matter were "high-level discrepancies." (Tr. 72, 75, 78). Tully believed, based on his review of the relevant documents, that Respondent was reporting activity that he had not actually performed on his Monthly Activity reports. (Tr. 74-76).

Respondent maintained that he has always followed proper procedure with regard to issuing summonses. He noted that he generally turned summonses back in to his supervisor, Sergeant Rosa, during this period as he was the sergeant's driver for much of this time. (Tr. 110-13). As to the truancy reports, Respondent testified that he always gave truancy reports directly to the youth officer or left them in her top drawer, as was the general practice when she was not on-duty. (Tr. 120). He stated, "I don't know what happened to them after they were left on the desk or on the top drawer. (Tr. 121). As to the UF-250 stop and frisk reports, Respondent recalled that he sometimes let more junior officers prepare and turn in his reports for him, which he characterized as "foolish" given

the later discovered discrepancies. (Tr. 121-22). Finally, Respondent asserted that he never intentionally exaggerated his productivity and that his monthly activity reports accurately reflected the summonses he issued and the truancy and stop/frisk reports he prepared. (Tr. 124).

Respondent's counsel emphasized that his supervisor received a schedule "A" Command Discipline and forfeited one vacation day for "failing to verify Respondent's monthly activity" for the months of November and December 2011. (Tr. 84, 95-98, 154; RX A). The Command Discipline was issued by the Commanding Officer of the Brooklyn South Investigations Unit because, according to Tully, it was determined during the investigation of Respondent that, "[w]e were not satisfied with [Rosa's] supervision." (Tr. 98; RX A). I do not find this to be dispositive or particularly relevant. It does not follow, as counsel has suggested, that Respondent's monthly reports were therefore accurate for the other eleven months in question simply because his supervisor was not disciplined for failing to verify Respondent's activity during those months. The failings of Respondent's supervisor as to verification are not the subject of this trial.

This tribunal finds that Respondent has failed to provide any real explanation for multiple, significant discrepancies between his self-prepared Monthly Activity reports and Department records. Respondent seems to suggest that the discrepancies as to summonses exist because supervisors failed to scan summonses in and out according to procedure (Tr. 136-39), that the truancy discrepancies exist because of the youth officer's failure to log his reports (Tr. 121), and that the stop and frisk discrepancies exist because junior officers may have failed to prepare and/or turn in Stop, Question and Frisk reports on his behalf. (Tr. 121-22). Respondent's insistence that this abundance of discrepancies

on his self-prepared Monthly Activity Reports occurred because of the purported mistakes of many other members of the service, but never Respondent himself, strains credulity.

Moreover, Respondent provides no support for his contention that other officers failed to follow through on documentation of the summonses and reports. In particular, it is difficult to fathom how Respondent could have possibly issued 262 "A" summonses when he was only given four books containing twenty summonses each during this time period. While oversight and error is certainly not outside the realm of possibility, this tribunal cannot accept, without any corroborating evidence, Respondent's assertion that a supervisor must have neglected to scan nearly 180 "A" summonses or nine additional books. Similarly, the tribunal cannot accept Respondent's self-serving assertion, with no additional supportive evidence, that one hundred truancy reports that he prepared were subsequently lost or misplaced by the youth officer before being documented. As a final point, none of these stop and frisks, trancies or summonses are denoted in Respondent's daily Activity Log because Respondent has admitted he failed to maintain his Activity Log during this time period.

Because the documents in evidence show many significant discrepancies between Respondent's self-prepared Monthly Activity reports and Department/precinct records and because I do not credit the purported explanation as to why these significant discrepancies exist, Respondent is found Guilty of failing to properly and accurately document activity in his Monthly Activity Reports.

As Respondent has pled Guilty to Specification 2, failing to maintain his Activity Log between January 1, 2011 and January 31, 2012, he is found Guilty as charged.

Disciplinary Case No. 2014-11671

In a separate matter, Respondent is charged with (i) failing to make timely notifications, between March and August 2013, after having found previously unaccounted summonses near his locker, and (ii) failing to timely submit previously issued summonses that were listed on the Summons Aging Report. Having considered the evidence and testimony, I find Respondent Guilty of both charges.

The following facts are undisputed. Respondent was on sick leave from November 2012 to March 2013. (Tr. 107). In August 2013, Sabbatino, the Integrity Control Officer, was collecting all the outstanding "B" summonses for the precinct. (Tr. 35, 119). At the same time, he inquired as to Respondent's summonses that were listed on the "summons aging report." The aging report is an ICO report that lists summonses that have been outstanding for over ninety days. (Tr. 36). Respondent subsequently brought him approximately sixty-seven (67) summonses, including A, B & C summonses, some of which were issued and scanned in to the computer system, some of which were blank and had never been prepared by Respondent and some of which had never been initially scanned out by a supervisor. (Tr. 37, 59, 62, 64-66, 145-46). These summonses, according to Respondent, had been found near his locker. (Tr. 117).

At issue is whether Respondent failed to timely notify a supervisor regarding the summonses discovered near his locker and failed to timely submit the outstanding summonses that were on the aging report. Respondent testified that he does not recall what summonses were in his locker when he went on sick leave. (Tr. 116). He asserted that when he came back in March his locker was in "complete disarray," not the condition in which he had left it. He observed a stack of summonses on top of the locker

that was two lockers down from his own. (Tr. 117). He examined those summonses and realized they belonged to him. Respondent stated at trial that after making this discovery, he went to both the desk officer and Sabbatino and advised them of what he had found. (Tr. 117, 147). According to Respondent, Sabbatino did not take custody of the summonses and Respondent put them back in his locker "for the time being," so that Sabbatino could "do his job as an ICO." (Tr. 118). Respondent stated that he subsequently turned the summonses in to Sabbatino in August when Sabbatino requested outstanding summonses. (Tr. 119).

Respondent had no explanation for how summonses that he claimed that he had turned back in to supervisors had ended up in or near his locker. (Tr. 123). He acquiesced that there were other summonses that he had likely never turned in to a supervisor. (Tr. 124). He denied ever "intentionally" failing to timely submit aging summonses. (Tr. 125).

Respondent further noted that when he did a "complete inventory" of his locker in August 2013, he discovered that two uniform shirts were missing from his locker. (Tr. 128, 149-50). He stated that he had given other officers his locker combination so they could retrieve a van key. (Tr. 129-30). He did not know exactly who went into his locker while he was on leave. (Tr. 130). Respondent did give investigators the names of three officers who had access to his locker combination but stated that he did not believe they had removed anything. Those officers participated in GO-15 interviews and no misconduct was substantiated against any of them. (Tr. 86-88). The shirts were subsequently returned.

Conversely, Sabbatino testified that he knew nothing of any summonses in or near Respondent's locker until August 2015 when he asked Respondent to bring him outstanding and aging summonses. (Tr. 38, 43). He stated that, at that time, Respondent told him that the summonses must have been taken out of his locker as over twenty officers had his combination. (Tr. 39). Sabbatino recalled that during this conversation Respondent also mentioned missing shirts. (Tr. 39-40). He explained that he "recognized the severity of what [Respondent] was reporting," took complaint reports and notified IAB regarding the summonses and shirts Respondent alleged were removed from his locker. (Tr. 40-42; DX 6-7).

Lieutenant Tully testified that he conducted a GO-15 hearing of Sabbatino after Respondent alleged that he had informed Sabbatino about the recovered summonses months earlier. (Tr. 89). No misconduct was substantiated against Sabbatino, as Tully explained that "[w]e did not believe that Officer Broner told [Sabbatino] in March that the summonses had been removed." (Tr. 90). Tully further stated that during Respondent's GO-15, he could not provide an explanation as to why he was in possession of issued summonses that had been never turned in to a supervisor or scanned back in to the computer other than that he may have forgotten to turn them in. (Tr. 92).

Even if this tribunal credits the testimony that shirts were removed from Respondent's locker and subsequently returned, this fact is not dispositive in determining whether Respondent is guilty of the misconduct alleged. The shirts were discovered to be missing in August; Respondent admitted he discovered the unaccounted for summonses several months earlier in March. As such, the crucial question is whether Respondent

notified Sabbatino regarding the summonses in March, as he testified, or did not make him aware of them until August when Sabbatino requested outstanding summonses.

The tribunal credits the testimony of Sabbatino and Tully and finds that Respondent did not notify Sabbatino or any other supervisor of the summonses after discovering them in March. Sabbatino and Tully testified in a straightforward manner and were not shown to have any bias against Respondent. Further, it defies logic that the Integrity Control Officer for the precinct would not take custody of missing summonses for five months if he had he been notified of their discovery in March 2013.

Conversely, Respondent's motive to testify that he timely notified Sabbatino is great. He is the subject of two disciplinary cases and faces a potentially significant penalty if he is found guilty. His credibility is further called into the question by his testifying at trial that he also advised an unnamed desk officer of the summonses in March 2013. At the no point during the earlier investigation or GO-15 did Respondent make this contention. (Tr. 147-48). He suggested he simply forgot. Finally, there is absolutely no documentation or other evidence that Respondent notified anyone of the summonses in March 2013. For these reasons, this tribunal cannot credit Respondent's testimony that he notified Sabbatino after discovering the summonses in March 2013.

Accordingly, I find Respondent Guilty of Specification 1, failing to make timely notifications after having found previously unaccounted summonses. As some of those previously unaccounted for summonses were on the Summons Aging Report and Respondent admitted that he may have neglected to turn some aging summonses in expeditiously. (Tr. 65, 124). Respondent is also Guilty of Specification 2, failing to

timely submit previously issued summonses that were listed on the Summons Aging Report.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was re-appointed to the Department on July 22, 2002. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of (i) failing to properly and accurately document activity in the Monthly Activity Reports, including but not limited to summons activity, UF-250 reports, and Truant reports; (ii) failing to maintain his Activity Log over a thirteen-month period; (iii) failing to make timely notifications after having found previously unaccounted for summonses and (iv) failing to timely submit previously issued summonses that were listed on the Summons Aging Report. The Department seeks a penalty of twenty-five (25) vacation days.

The requested penalty is consistent with Department precedent for this type of misconduct. In *Case No. 2011-4813* (April 19, 2013), an eighteen year police officer with no prior disciplinary record negotiated a penalty of thirty (30) vacation days for reporting that he issued fifteen summonses and wrote eighteen stop and frisk reports on a Monthly Activity Report when he had only issued four summonses and conducted three stop and frisks. See also *Case No. 2010-1979* (December 5, 2011) (eighteen-year police officer,

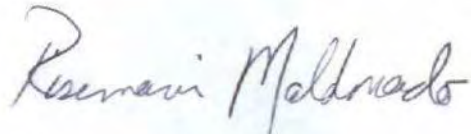
with no prior adjudications, negotiated a penalty of thirty (30) vacation days for inflating the number of summonses issued on his Monthly Activity Report).

In cases where the Monthly Activity Reports were inaccurate over a longer period of time, or where there were other charges involving timely submission of summonses and incomplete Activity Logs, dismissal probation was added as a component of the penalty along with vacation days. For example, in *Case No. 2011-5723* (June 27, 2014), a fourteen-year police officer, with no prior adjudications, negotiated a penalty of thirty (30) vacation days and one-year dismissal probation for misrepresenting the number of summonses he had written on his Monthly Activity Reports, failing to timely submit five summonses and failing to maintain his Activity Log. Similarly in *Case No. 2010-3378* (December 12, 2011), a seven-year police officer, with no disciplinary record, negotiated a penalty of thirty (30) vacation days and one-year dismissal probation for, over a six month period, (i) failing to submit eighteen summonses that were legitimately prepared and (ii) indicating on his Monthly Activity Report that he had issued 91 summonses and prepared seven UF-250 reports when had only actually issued 18 summonses and had not prepared any UF-250 reports, and failing to maintain his Activity Log.

Because Respondent's Monthly Activity Reports were inaccurate over a thirteen month period and because Respondent is also Guilty of failing to timely submit aging summonses, failing to make appropriate notifications when he discovered outstanding summonses and failing to maintain his Activity Log over a thirteen-month period, the tribunal recommends a penalty of twenty-five (25) vacation days. In addition it is recommended that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one-year, pursuant

to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings.

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner - Trials

APPROVED

DEC 21 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JEFFREY BRONER
TAX REGISTRY NO. 931562
DISCIPLINARY CASE NO. 2013-8999 & 2014-11671

Respondent was appointed to the Department on October 15, 1990 under tax number 897077. He subsequently resigned on February 6, 1998. Respondent was again appointed to the Department on July 22, 2002. His last three annual evaluations were as follows: he received a 2.5 rating of "Below Competent" in 2014 and 3.0 ratings of "Competent" in 2012 and 2013. He has no medals.

Respondent has no prior formal disciplinary record. He was placed on Level 2 Discipline monitoring on April 3, 2014 at the recommendation of his Commanding Officer.

[REDACTED]

For your consideration.



Rosemarie Maldonado
Deputy Commissioner – Trials